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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JOHN TEIXEIRA, STEVE  
NOBRIGA, GARY GAMAZA,  
CALGUNS FOUNDATION (CGF),  
INC., SECOND AMENDMENT  
FOUNDATION (SAF), INC., and  
CALIFORNIA ASSOCIATION OF  
FEDERAL FIREARMS LICENSEES  
(Cal-FFL),

Plaintiffs,

vs.

COUNTY OF ALAMEDA, ALAMEDA  
BOARD OF SUPERVISORS (as a  
policy making body), WILMA CHAN  
in her official capacity, NATE MILEY  
in his official capacity, and KEITH  
CARSON in his official capacity.

Defendants.

CASE NO.: 3:12-CV-03288 SI

DECLARATION OF ALAN GOTTLIEB  
FOR SECOND AMENDMENT  
FOUNDATION, INC.

1 I, ALAN GOTTLIEB, declare as follows:

2 1. I am the Founder of the SECOND AMENDMENT FOUNDATION, INC.

3 2. The SECOND AMENDMENT FOUNDATION, INC., (SAF) is a non-profit  
4 membership organization incorporated under the laws of Washington with its  
5 principal place of business in Bellevue, Washtington.

6 3. SAF has over 650,000 members and supporters nationwide, including  
7 California.

8 4. The purposes of SAF include education, research, publishing and legal action  
9 focusing on the Constitutional right to privately own and possess firearms,  
10 and the consequences of gun control.

11 5. SAF expends financial and other resources in both litigation and non-  
12 litigation projects to protect the Second Amendment rights its members and  
13 the public-at-large.

14 6. SAF brings this action on behalf of itself and its members.

15 7. The State of California strictly regulates who may purchase/acquire firearms.  
16 Some form of mandatory training is a required showing before a licensed  
17 firearm dealer and transfer a firearm. For example:

18 a. Fish and Game Code section 3050 and the California Code of  
19 Regulations, Title 14, section 710, provide that no hunting license shall  
20 be issued unless the applicant presents:

- 21 i. evidence that he or she has held a hunting license issued by this  
22 state in a prior year; or
- 23 ii. evidence that he or she holds a current hunting license issued by  
24 another state or province; or
- 25 iii. a certificate of completion of a course in hunter safety, principles  
26 of conservation, and sportsmanship, as provided in this article,  
27 with a hunter safety instruction validation stamp affixed  
28 thereto; or

- iv. a certificate of successful completion of a hunter safety course in another state or province; or
  - v. evidence of completion of a course in hunter safety, principles of conservation, and sportsmanship, which the commission may, by regulation, require.
- b. Effective January 1, 2003, any person who wishes to receive a handgun through a sale or transfer must have a valid Handgun Safety Certificate (HSC) or a qualifying exemption. Any person who wishes to obtain an HSC must pass a written test that includes, but is not limited to, laws applicable to carrying and handling firearms, particularly handguns; responsibilities of ownership of firearms, particularly handguns; the law related to the private sale/transfer of firearms; the law as it relates to the permissible use of lethal force; safe firearm storage; and issues & prevention strategies associated with bringing firearms into the home. (CA Penal Code § 26800 *et seq.*) A DOJ Certified Instructor may charge each HSC applicant a fee of up to \$25 to cover the costs of providing the test and issuing the certificate. (CA Penal Code §§ 31645, 31650.)
  - c. Any person who takes delivery of a handgun from a firearms dealer must first successfully demonstrate to a DOJ Certified Instructor that he or she is able to handle that handgun safely and that he or she can properly operate all of the safety features. Any person who has an exemption to the HSC requirement is also exempt from this requirement. (CA Penal Code §§ 26850(a)-(b), 26853, 26856, 26859)
8. Furthermore gun stores are partners with federal, state and local law enforcement agencies on the issues of gun safety and helping to stop gun crimes. For example, in California private party transfers of all firearms must occur through a licensed dealer unless the transfer is subject to very

1 narrow exceptions (e.g., antique, curio, relic, long-gun transfers between  
 2 immediate family members) (CA Penal Code §§ 16130, 16400, 16550, 16810,  
 3 17110, 26700-26915 (inclusive), 27500-27590, 28050-28070).

4 9. Licensed gun stores are one of only two places (firearm dealer and law  
 5 enforcement agency) where someone subject to a “domestic violence  
 6 restraining order” can turn in their guns in order to comply with federal and  
 7 state law. See CA Family Code § 6389 *et seq.*

8 10. Thus licensed gun stores facilitate making sure that appropriate safety  
 9 training has occurred, that the person is not prohibited from acquiring  
 10 firearms, and that consumers are advised of their duties of safe storage of  
 11 firearms. They also act as a temporary repository for the safe-keeping of  
 12 firearms during domestic disputes.

13 11. Far from being a necessary evil, licensed gun stores are a net positive to the  
 14 communities they serve. They not only provide the means of exercising a  
 15 fundamental right, but they ensure that transfer laws are complied with and  
 16 government mandated safety programs are effective.

17 12. A nonsensical regulation, like the “500 foot rule” at issue in this case, which  
 18 has the effect of reducing law-abiding citizens’ access to firearms, information  
 19 and the safety programs offered by licensed gun stores, cannot meet any form  
 20 of heightened scrutiny required by our Constitution.

21 13. SAF funded litigation on (almost) this identical issue in *Ezell v. City of*  
 22 *Chicago*, 651 F.3d 684, 2011 U.S. App. LEXIS 14108. (7<sup>th</sup> Cir., July 6, 2011).  
 23 We obtained a preliminary injunction because that Seventh Circuit Appellate  
 24 panel found that it is nonsensical for the government to require safety  
 25 specific firearm regulations that necessarily pre-supposed the existence of  
 26 licensed gun stores, and then simultaneously turn around and outlaw –  
 27 through land use regulation – the very entities necessary to carry out those  
 28 policies.

14. The "500 foot rule" is similarly flawed in this case.

I declare under penalty of perjury, under the laws of California and the United States, that the foregoing is true and correct and that this declaration was executed in California on November 5, 2012.

/s/ Alan Gottlieb

Alan Gottlieb for Plaintiff  
The Second Amendment Foundation, Inc.

**ATTESTATION FOR COMPLIANCE WITH  
LOCAL RULE 5.1**

I, Donald Kilmer, declare under penalty of perjury under the laws of California and the United States that I have in my possession e-mail correspondence from ALAN GOTTLIEB that the content of this document is acceptable to all persons required to sign the document. I declare that this document was signed in San Jose, CA on November 5, 2012.

/s/

Donald Kilmer  
Attorney for Plaintiffs